

(2016) 03 P&H CK 0175
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 2021 of 2016 (O&M).

Rajiv Johar

APPELLANT

Vs

Union of India and another

RESPONDENT

Date of Decision : 02-03-2016

Acts Referred:

Citation : (2016) 3 PLR 31 : (2016) 2 PLR 598 : (2016) 3 RSJ 389 : (2016) 3 SCT 88

Hon'ble Judges : Rajesh Bindal, J.

Bench : Single Bench

Advocate : Aman Bansal, Advocate, for the Appellant; Sudhir Nar, Advocate, for the Respondent

Final Decision : Allowed

Judgement

Rajesh Bindal, J. - The petitioner has approached this court impugning the order dated 14.1.2016, passed by respondent No. 2, vide which his application for renewal of Certificate of Practise as Notary was rejected on the ground that the application was not filed six months before the expiry of period of validity.

2. Learned counsel for the petitioner submitted that no doubt, as per the Rule 8B of the Notaries Rules, 1956 (for short, "the Rules"), application for renewal has to be filed six months before the date of expiry of period of validity, however, the appropriate Government has been given power to relax the condition considering the reasons stated in the application. In the case in hand, the Certificate of Practise of the petitioner was to expire on 8.11.2015. He filed the application on 7.9.2015. The delay occurred on account of the reason that father of the petitioner was not well and he expired on 3.1.2016. The aforesaid reasons were mentioned in response to the notice issued to the petitioner. In support of his plea that delay in filing the application is not fatal, reliance was placed upon the judgments of Delhi High Court in W.P. (C) No. 8503 of 2015-Neelam Sharma v. Union of India, decided on 11.9.2015 and Kerala High Court in W.P. (C) No. 30974 of 2015 (V)--Ranjith Kumar T. C. v. Union of India and another, decided on

17.11.2015.

3. On the other hand, learned counsel for the respondents submitted that the application having not been filed within the period prescribed under the Rules and the reason assigned by the petitioner was not found to be tenable, the application for renewal filed by the petitioner was rightly dismissed.

4. Heard learned counsel for the parties and perused the paper book.

5. Rule 8B of the Rules provides that application for renewal of Certificate of Practise as Notary is to be submitted six months before the date of expiry of the period of validity, however, proviso to the Rule provides that the appropriate Government may, considering the reasons stated in the application, relax the condition of submission of application for renewal of Certificate of Practise. Rule 8B of the Rules is extracted below:

"8B. Renewal of Certificate of Practise-- The Certificate of Practise issued under sub-rule (4) of rule 8 may be renewed for a further period of five years on payment of prescribed fee. An application for renewal of Certificate of Practise shall be submitted to the appropriate Government before six months from the date of expiry of its period of validity.

Provided that the appropriate Government may, after considering the reasons stated in the application, relax the condition of submission of application for renewal of certificate of practise before the above specific period."

6. Once the proviso to the Rule itself provides that there is power to relax, meaning thereby the period prescribed therein is not mandatory. In the case in hand, the Certificate of Practise of the petitioner was to expire on 8.11.2015. He applied for renewal thereof on 7.9.2015, on which certain queries were raised vide letter dated 5.10.2015, which were responded to by the petitioner vide letter dated 23.10.2015. While specifying the reason for delayed filing of the application, the petitioner submitted as under:

"2. Reasons for delay in applying for renewal:-

That my renewal of certificate of practise under the Notary Act 1952 is 8th November, 2015 and I have applied for renewal on 7th September, 2015, whereas I have to apply six months before the renewal date as per new amendment in the rule 8-B of The Notaries Rules, 1956. That there is delay of about three months due to family health problems. That my father remains very sick and he is bed ridden from last eight months, he is about 85 years old (ex-serviceman and an advocate) moreover my wife is suffering from slip-disc problem. I am the only person to look after them, therefore I could not apply for renewal in time due to mental stress. I swear on oath that there shall not delay in future in any respect."

7. A perusal of the aforesaid reason shows that the application could not be filed because of illness of father of the petitioner, who was 85 years of age and ex-

serviceman. The petitioner also claimed that his wife was also suffering from slip-disc. Without considering the reasons stated in the application, the competent authority rejected the application merely stating that the application was not filed six months prior to the date of expiry of Certificate of Practise. The reason assigned is not tenable.

8. In view of my aforesaid discussion, the writ petition is allowed. The impugned communication rejecting the application of the petitioner for renewal of Certificate of Practise as Notary is set aside. The matter is remitted back to the competent authority to be decided afresh. The petitioner shall be at liberty to supplement the reason for non-filing of the application within the period prescribed.